IN THE HIGH COURT OF BOMBAY AT GOA

MISC.CIVIL APPLICATION NO. 206 OF 2007
IN
STAMP NUMBER (APPLN.) NO. 554 OF 2007

MR. MANUEL D'COSTA & ORS. ... Applicant
Versus
MRS.EUGENIA V. D'COSTA ... Respondent

Mr. J. Mulgaonkar,Advocate for the applicant.
Ms. Sapna Mordekar, Advocate for the respondents No.6(a) To 6 (g).

Coram:- R. S. MOHITE, J.

Date:- 26th July, 2007

P.C.

This application has been filed in S.A. No.37/99 seeking setting aside of abatement. It is sought in the application that separate application is being filed for bringing L.R's on record. There is also prayer for condonation of delay. On perusing this application, it is noticed that all the parties in the S.A. are not made parties to this application. There is no mention about quantum of delay in filing heirs application. A reply was filed opposing this application and rejoinder was also filed there. Even in the rejoinder, there is no mention about the quantum of delay. Today yet another affidavit dated 11.7.2007 has been filed wherein for the first time it is stated that delay is of 1575 days. since all the parties to the Second Appeal, have to be the parties to the application, I am not inclined to entertain the same. The Advocate for the applicant states that, he would like to withdraw this application and file a fresh one. The application is dismissed as withdrawn. It appears that the respondent in Second Appeal No.37/99 who is expired, is the only respondent. In the circumstances, the appeal abates. Interim relief will not survive. The Execution proceeding can continue if filed. As consequences, Stamp No.554/2007

and stamp No.555/2007 in S. A. 37/99 stand disposed of.

R. S. MOHITE, J.

SMA